

**THAT** ancient pueblos between Las Vegas and Albuquerque are about to be buried.

**WISE** is the way to describe Justice Hughes' stand on the nomination matter.

## ALTERATIONS TO BE MADE IN THE GERMAN NOTE ON LUSITANIA MINOR

### Pope Declines To Relinquish Jurisdiction in Disbarment

Files Opinion and Order Striking Prejudice Affidavit From Records. Retaining Authority to Hear Action.

**CAUSE SET FOR A HEARING APRIL 12**

Ground Taken That Bare Allegation Is Insufficient and That "Facts and the Reasons" Should Be Shown.

All Major Premises Agreed Upon. Is Stated in Washington: "Recognition" Instead of "Assumption" Proposed.

**SETTLEMENT THOUGHT BUT A FEW DAYS OFF**

Whole Matter Submitted to Imperial Chancellery for Final Approval; Answer Expected in Week.

By Evening Herald Leased Wire  
Washington, Feb. 9.—One of the changes in the Louisiana agreement suggested by Secretary Lansing to Count von Bernstorff, the German ambassador, is the substitution of the words "recognizes liability" for the words "assumes liability," which were employed in the tentative draft.

Germany's latest proposal in the Louisiana case, having passed, is substance, a step toward the United States final settlement of the controversy is effected within a few days.

Some alterations, however, in the form of the agreement, regarded as minor ones, are to be made to meet wishes of the American government. One of the changes it is stated authoritatively, is that the communication shall specifically include the statement that it was no answer to the last American note Count von Bernstorff, the German ambassador has submitted the whole matter by cable to the Berlin government for that approval. It is said that will be forthcoming in about six days.

It is understood that upon this change and others described also as minor, is based the expressed view of high officials that the two governments are "substantially in accord," although not wholly so.

No new difficulty is expected here from the change in words. It is felt that Germany could not or would not assume a liability which she would not recognize. It is not believed here that the Berlin officials will hesitate to accept the suggestion.

It was not disclosed just when American officials determined that the recognition instead of the assumption of liability was more to be desired.

From one quarter came the suggestion that the word "recognizes" made clearer the meaning the German government desires to convey. It has not been suggested, it was said, that either the word illegal or legal be employed in the formal communication, the understanding being that the Berlin officials are particularly desirous of using either at the same time wishing to have the viewpoints of the two governments concerned in harmony.

### URGES FORMATION OF BINDING PAN-AMERICAN ARBITRATION MEASURE

By Evening Herald Leased Wire  
Washington, Feb. 9.—Edward A. Flene, of Boston, speaking at today's session of the convention of the chamber of commerce of the United States, declared it was the duty of the United States and the states of South America to take steps to complete a Pan-American program, which will include international arbitration with power behind it to enforce its operation.

The war will be followed by a pace for markets which will result in the most destructive competition yet known, he declared.

Dr. Wellington Koo, Chinese ambassador to the United States said the European war has shifted the money center of the world to the United States. He urged closer trade relations between the United States and China.

### POPE OPINES VERDICT IN THE MANBY CASE IS CONSIDERABLY TOO HIGH

Judge William H. Pope in the federal court today issued an order that the verdict for \$16,700 damages awarded by a jury to Margaret Wadell of Los Angeles against A. B. Manby of Taos for breach of promise be cut to \$7,000 on the ground that the damages were excessive. The plaintiff is given the alternative of accepting the reduction or having the case retried.

The case of Ignacio Aragon against the Santa Fe railroad, for \$5,000 damages for alleged injuries received at Belen, began in federal court here yesterday afternoon occupied all of the morning session of the court trial. It was sentenced to six months in the penitentiary at Santa Fe and to pay a fine of \$1,000 and costs.

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### RELIEF WORK FOR ARKANSAS FLOOD REFUGEES BEGINS

By Evening Herald Leased Wire  
Little Rock, Ark., Feb. 9.—Relief work among the refugees of the flood continued in earnest today when a steamer loaded with supplies left to distribute food and fuel among 1,000 or more destitute persons at Pendleton, Red Fork, Douglas, Watson and other towns in the inundated basin.

Business in Arkansas City virtually is suspended. A few merchants are conducting business from the second stories of their stores and from box cars on the levee.

The flood's death toll was increased to 17 by a drowning last night.

### GERMAN CRUISER ROON, CAPTOR OF APPAM, CAPTURED

Indirect Advices From Bermuda Record Taking of War Vessel and Several Others by British Ship.

By Evening Herald Leased Wire  
New York, Feb. 9.—Advices received here today assert that the German warship Roone, alleged to be captor of the Appam, has been captured by the British armored cruiser Drake after a three hour fight 260 miles east northeast of Bermuda, according to a story printed by the New York Evening Globe.

The capture of the Roone is said by the story to have been followed by the seizure of two merchantmen flying the German flag, one of which was armed.

The story is contained in a message which the Globe states it received in code from a reliable source in Bermuda. The message reads:

"Drake here today taking Roone took her 200 miles east northeast Bermuda three hours running fight. Lost Dartford eighteen men. Her losses about one-third. Struck as we came along. Two merchantmen with her, one armed. Took both. Brought here. Searched on sight Roone said. Please read, today I will average orders. Roone badly knocked about by 9:2. Thirty-two officers and 719 men taken in the three prizes."

The Seagrave mentioned in the message is supposed to be Captain Seagrave, who was with Admiral Cradock when the latter went down with his flagship, the Goodhope, which was involved in an explosion off the coast.

The remainder of the affidavit refers to the opinion of the court rendered upon issues necessarily involved in disposing of the Garcia case. Under similar circumstances, it was stated by the circuit court of appeals for the Fifth circuit in Henry vs. Speer 261 Fed. 884 referring to the affidavit:

"The personal revelation the facts and reasons advanced in support of the charge of bias and prejudice do not tend to show the existence of a personal bias or prejudice on the part of the judge toward petitioner but rather a pre-judgment of the merits of the controversy and against defendants right to recover. Section 21 is intended to afford relief against this situation."

Another ground upon which the affidavit is adjudged insufficient, is that the specifications of the committee embody as the last two charges there-of matters which are relevant not only upon the question of disbarment, but as constituting acts of direct contempt to the court. Section 21 does not apply to a proceeding such as that in Uller 268 Fed. 161. As to the remaining charges which go to the continued membership of the respondents of this day, I am of the opinion that for reasons similar to those set forth in the Uller case, Section 21 is not applicable.

"Jurisdiction is inherent in a court to determine matters of misconduct affecting its officers and this power is ordinarily to be exercised by the presiding judge of said court before whom such attorneys, if exonerated, must continue to practice. Unless there is a clear indication of congressional intent to take away such power from the judge the power must be deemed to remain as an incident of his duty to determine the qualifications of attorneys, either to be admitted to membership at the bar or to continue as such."

"Jurisdiction of the court will accordingly be retained upon the ground that the affidavit of prejudice is not sufficient, the affidavit will be stricken from the files for the same reason and the cause will be set for trial at Santa Fe on Wednesday, April 12th, 1916 at 10 o'clock a.m. Wherefore,

ORDER.

"It is found by the court that the affidavit of prejudice filed herein is insufficient to justify a release of jurisdiction by the undersigned judge of the matter involved in this court. It is further ordered that because of said insufficiency, the said affidavit be and the same hereby is stricken from the files. It is further ordered that the cause stand for trial at Santa Fe on Wednesday, April 12, 1916, at 10 o'clock a.m.

Dated, Santa Fe, New Mexico, this

W. H. POPE,  
U. S. District Judge.

### PAT POWERS SELLS FOUR OF FEDERAL'S LEFT-OVER PLAYERS

By Evening Herald Leased Wire  
New York, Feb. 9.—Pat Powers, representing Harry Sinclair, chief stockholder in the late Federal League, announced today that he had sold four players held by Sinclair under the peace agreement between organized baseball and the Federal League. The Cincinnati club obtained Catcher Fred Huhn, Outfielder Jimmy Edmund and Hebe Schatz. Outfielder Grove Gilmore has been purchased by Mike Kelly, manager of the St. Paul American Association club. The prices were not made known.

Hearings on national defense recommended ratification of Haines treaty.

Secretary Daniels before public lands committee opposed opening western oil lands to public.

Witnesses in dis-enchantment proceedings against United States Attorney Marshall of New York heard in executive session by judiciary subcommittee.

The coal companies to be maintaining their position that business conditions in the bituminous fields did not justify an advance in wages. The United Mine Workers pointed out that prosperity was general.

### BRANDEIS' STAND IN RATE CASE IS DISCUSSED TODAY

Action of Presidential Nominee for Supreme Bench in Relation to Passenger Fares Brought Up Against Him.

By Evening Herald Leased Wire

Washington, Feb. 9.—At the hearing before the judiciary subcommittee considering the nomination of Louis D. Brandeis, Clifford Throne of Iowa called attention to the attitude of Mr. Brandeis before the interstate commerce commission in the five-cent

### JUSTICE HUGHES DECLINES TO LET HIS NAME BE USED

By Evening Herald Leased Wire

Washington, Feb. 9.—Representative Stump, chairman of the Virginia Republican committee, today made public a letter from Justice Hughes declaring:

"I am totally opposed to the use of my name in connection with the nomination and to the selection or instruction of any delegates in my interest directly or remotely."

Justice Hughes' letter, made public with his consent, was in reply to a letter from Mr. Stump which informed the justice that Frank B. Littlejohn, postmaster general under President Taft, had inaugurated a movement in the south favoring the justice for the Republican presidential nomination.

### SIX CONSULAR AGENTS OR EMPLOYEES ACCUSED

Three Groups of Charges Made in True Bills Found Against Number of Reported German Sympathizers.

### VILLA UNABLE TO RETAIN POSITION IN HILLS LONGER

De Facto Government Forces Drive Bandit Chief and Followers From Stronghold in Canyon de el Nido.

By Evening Herald Leased Wire

El Paso, Tex., Feb. 9.—General Francisco Villa and his band are officially reported by General Gavira, commandants of Juarez to have been driven out of the Canyon de El Nido, in the Santa Clara district. General Gavira said his commandants in western Chihuahua operating against Villa report that the bandits are moving through a canyon from the Canyon de El Nido eastward toward Laguna on the main line of the Mexican Central railway. Colonel Samson Gonzales arrived early this morning at Laguna to head off the movement.

Senator Walsh contended that Thorne had not made himself clear as to Mr. Brandeis' position. The same, the senator thought, was the gross revenue and not the net. Mr. Thorne insisted that the issue before the commission concerned not revenue.

Mr. Thorne agreed with Senator Wilson's statement that his position before the commission was that the net revenue, notwithstanding any scientific management, was adequate and that Mr. Brandeis' position was that the net revenue was inadequate and should be increased by charging for certain special services.

Mr. Thorne read from Mr. Brandeis' brief to show Mr. Brandeis knew two points were before the commission for consideration. First, adequacy of the revenue; and second, if inadequate, how additional revenue could be secured.

Senator Commons inquired if Mr. Thorne's position was that the public should pay no more to the railroad than the Mexican Central to operate with Gonzales.

General Bertoni, commanding at Madero and directing the pursuit, referred to General Gavira as follows:

"General Bertoni, commanding at Madero and directing the pursuit, referred to General Gavira as follows:

"General Gavira said his commandants had refused the Villa gang, who recently offered to surrender with 600 men of Villa's band at Las Cruces near the Santa Clara ranch. This band, according to Bertoni, had burned a number of ranch houses and destroyed considerable other property and should be exterminated. Sixty-five former Villa soldiers arrived in Juarez today from the Guzman district having surrendered and given up their arms and horses. An equal number was reported at Guzman ready to receive amnesty.

Mr. Brandeis contended the passenger rates should be increased and that the mail rate should be increased," explained Mr. Thorne. "Those would have added additional burdens to the public."

"At the opening of Mr. Brandeis' oral argument he made this statement," began Mr. Thorne, reading from the record.

"On the whole the net income and the net operating revenue in official classification territory are smaller than are consistent with their property and the welfare of the public, and conditions are bad in Central association territories and also other roads because of the Central association states."

"I was simply disabused by the statement," declared Mr. Thorne.

"For four years the railroads had been fighting to establish that before the interstate commerce commission. They had carried on a campaign of propaganda in newspapers, mass-meeting speeches and in every conceivable manner. I am not saying dishonesty.

"I was dumbfounded to hear at the conclusion of this great case, involving \$50,000,000 annual interest on a billion dollars—if you adopt the standard of dollars and cents, the greatest case ever tried before a human tribunal since the dawn of civilization—no fact appeared imminent, and now we must show that we have the power to re-establish permanent peace in Mexico."

Washington, Feb. 9.—The first train in four years over the Southern Pacific line from Nogales, Ariz., to Maestranza, Mexico, was run on January 26. State department reports say railroad officials are hopeful of keeping the line open.

Colonel Edwards at Juarez reports that persons from Carrizal Guzman deny that Villa's execution or caused to be executed a number of women charged with being spies, as was reported some time ago.

All concessions involving exemption from taxation in the state of Aguascalientes have been declared void and owners of properties operated under such concessions are required to file statements showing the assessment value February 1 or be liable to a fine of 10 per cent of the value of the property. Several American companies are affected.

First conspiracy to defraud through false certificates.

Second, conspiracy to locate neutrality by making San Francisco a supply base for belligerent ships at sea.

Third, conspiracy to defeat neutrality by supplying belligerent ships with stores to which they were entitled.

Some of these indictments are connected with alleged violations of neutrality by the steamship Sacramento and it was understood that the government would ask dismissal of the earlier charges.

They were set for trial February 14. The speedy trial promised by the department of justice in all these cases was not granted.

(Continued on Page Two.)

### ELFEGO BACA AND MANUEL U. VIGIL MUST SHOW CAUSE OR BE DISBARRED

Local Attorneys, One of Them State Judiciary Official, Are Called Upon to Answer as to Conduct.

### AFFAIR AN AFTERMATH OF SALAZAR ESCAPE

Alleged Actions in Regard to Jail Delivery of Mexican General Given as Basis of Order by Judge Pope.

Manuel U. Vigil, district attorney, and Elfego Baca, attorney, both of this city, were directed in an order issued yesterday by Judge William H. Pope, of the federal district court, to enter an appearance in or before April 1, 1916, and show cause why they should not be discharged from further practice before that date. The ground is alleged conduct in reference to the escape of General Jose Yanez Salazar from the county jail of Albuquerque on the night of November 20, 1914.

The order of the court in the case of Elfego Baca sets forth that it appeared from the testimony under oath that the said Elfego Baca was content of instigated, counseled, aided and abetted the said Salazar in effecting said escape, and did, following said escape, counsel, aid and abet the said Salazar in evading and concealing himself from the said process and authority of this court. The court holds that these acts, if established on due hearing, "constitute contempt of this court, violation of his duty and his oath as a member of this court and are grounds for disbarment."

Baca is ordered to file his appearance on or before April 1.

Vigil is charged with the same offense and with "harboring" Salazar.

The order in the Baca case follows:

Franz Bopp, consul general for Germany.

Baron Egon von Schack, vice consul general.

Baron George Wilhelm von Brinckmann, attaché.

Johannes Hendrikus Van Koeverden, alleged German agent.

Charles C. Crowley, detective employed by the German consulate.

Mrs. Margaret W. Cornell, assistant to Crowley.

All these are involved in alleged plots to blow up Canadian tunnels and American powder mills.

For conspiracy to defraud the government in the alleged shipping plot involving the Retriever, Samuels, Mazatlan, and Olson and Mahony.

Henry W. Kauffman, chargeman of the German consulate general.

Baron Eichardt H. von Schack.

Robert Capen, agent here for the North German Lloyd Steamship company.